

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN ZAPATA, an Individual and as  
Assignee,

Plaintiff,

vs.

ALLIED PROPERTY AND CASUALTY  
INSURANCE COMPANY and  
NATIONWIDE MUTUAL INSURANCE  
COMPANY, an Ohio Corporation,

Defendants.

Case No. \_\_\_\_\_

**NOTICE OF REMOVAL  
AND  
REQUEST FOR TRIAL AT  
OMAHA, NEBRASKA.**

**NOTICE OF REMOVAL**

Defendants Allied Property and Casualty Insurance Company (hereinafter “Defendant Allied”) and Nationwide Mutual Insurance Company, an Ohio Corporation (hereinafter “Defendant Nationwide”), file this Notice of Removal pursuant to 28 U.S.C. §§1441(a) and 1332. In support of this Notice, Defendants state:

1. Plaintiff John Zapata, an Individual and as Assignee (hereinafter “Plaintiff”), initiated this civil action by filing a Complaint captioned “*John Zapata, an Individual and as Assignee, Plaintiff, vs. Allied Insurance and Nationwide Mutual Insurance Company, an Ohio corporation, Defendant.*” in the District Court of Sheridan County, Nebraska, Case No. CI 12-30 on or about May 1, 2012.
2. Defendant Allied was served with process by certified mail on or about May 7, 2012.
3. Defendant Nationwide was served with process by certified mail on or about May 5, 2012.
4. This Notice is therefore filed less than thirty (30) days after Defendants’ receipt of the initial pleading, as required by 28 U.S.C. §1446(b).

5. Defendants have not filed any responsive pleadings concerning this case in the District Court of Sheridan County, Nebraska, prior to the filing of this Notice of Removal.
6. Copies of all process, pleadings and orders served upon Defendants are attached hereto and incorporated herein as Exhibit "A" to this Notice.
7. The United States District Court for the District of Nebraska has original jurisdiction over the claims asserted in the state court action pursuant to 28 U.S.C. §1332(a) and the action may be removed to this Court by Defendants pursuant to 28 U.S.C. §1441(a).
8. Diversity of the Parties is complete: Plaintiff is domiciled in Nebraska, Defendant Allied is a corporation formed under the laws of the State of Iowa and having its principle place of business in Iowa, Defendant Nationwide is a corporation formed under the laws of the State of Ohio and having its principal place of business in Ohio.
9. The amount in controversy in this action is reasonably estimated to exceed \$75,000.00 exclusive of interest and costs.
10. Promptly after the filing of this Notice of Removal, written notice will be given by Defendants to all other parties as required by 28 U.S.C. §1446(d), and a copy of this Notice will be delivered to the District Court of Sheridan County, Nebraska.

**WHEREFORE**, Defendants Allied Property and Casualty Insurance Company and Nationwide Mutual Insurance Company, an Ohio Corporation, pray this entire cause be removed from the District Court of Sheridan County, Nebraska, to this Court.

**REQUEST FOR TRIAL IN OMAHA, NEBRASKA**

11. Defendants hereby request that trial be held in Omaha, Nebraska.

ALLIED PROPERTY AND CASUALTY INSURANCE  
COMPANY and NATIONWIDE MUTUAL INSURANCE  
COMPANY, an Ohio Corporation, Defendants

By: /s/Patrick V. Ortman  
Thomas M. Locher, NE Bar #15797  
Patrick V. Ortman, NE Bar #23439  
Robert H. Grennan, NE Bar #24519  
LOCHER PAVELKA DOSTAL BRADDY & HAMMES, L.L.C.  
200 The Omaha Club  
2002 Douglas Street  
Omaha, NE. 68102  
tlocher@lpdbhlaw.com  
rgrennan@lpdbhlaw.com  
Phone: (402) 898-7000  
Fax: (402)898-7130

**CERTIFICATE OF SERVICE**

**THE UNDERSIGNED HEREBY** certifies that the foregoing was filed in and served by the ECF System of this Court, and that the following person(s) was mailed a copy thereof by United States Mail, on this 1<sup>st</sup> day of June, 2012:

John Zapata  
1935 Yolande Avenue  
Lincoln, NE 68521  
**Plaintiff-Pro Se**

/s/Patrick V. Ortman

SHERIDAN COUNTY DISTRICT COURT

FOR THE STATE OF NEBRASKA

JOHN ZAPATA, an Individual and as Assignee, )

Plaintiff )

V. )

ALLIED INSURANCE and )  
NATIONWIDE MUTUAL INSURANCE )  
COMPANY, an Ohio corporation, )

Defendant. )

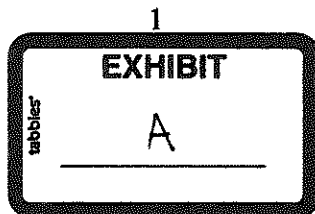
CASE NO. CT 12-30

COMPLAINT AND PRAECIPE

COMES NOW, the Plaintiff, John Zapata, and for its' Complaint against the Defendants, Allied Insurance ("Allied") and Nationwide Mutual Insurance Company ("Nationwide"), states and alleges as follows:

1. Cadiz is a partnership existing under the laws of the State of Nebraska, with its principal place of business in Lincoln, Lancaster County, Nebraska. MWE Services, Inc. has assigned it rights of collection to John Zapata of Lincoln, NE.
2. John Zapata is an individual residing in Lancaster County, NE. For purposes of this complaint, Cadiz, and John Zapata collectively and jointly will be referred to as "Plaintiff".
3. Allied has its company headquarters in Des Moines, Iowa, and is responsible for the independent agency system of Nationwide. Allied is authorized to conduct business in the State of Nebraska.
4. Nationwide is a financial services and insurance company organized under the laws of Ohio and authorized to conduct business in the state of Nebraska. This Court has subject matter

FILED  
5-1-2012  
ELOISE J. KAMPBEL  
CLERK DISTRICT COURT  
SHERIDAN COUNTY  
NEBRASKA



jurisdiction over this matter under Neb. Rev. Stat. §24-302 and Neb. Rev. Stat. §25-21,149 through Neb. Rev. Stat. §25-21,164.

5. Venue is proper in Sheridan County, Nebraska, under Neb. Rev. Stat. § 25-403.01, because the matters at issue occurred in Sheridan County, Nebraska.

6. Plaintiff purchased policy number ACP CPP 7203117841 from Defendant for the policy period of January 10, 2008 to January 10, 2009 for a piece of property known as 4497, 436 Trail, Hay Springs, NE 68521, herein after known as the "Property"

7. On or about, December 20, 2008, Plaintiff's property was damaged by a broken water line due to the extreme freezing, causing severe damage to the property.

8. Plaintiff did not become aware that he had insurance coverage until Plaintiff was having a conversation with Plaintiff's Insurance agent on or about October 23, 2009.

9. Once Plaintiff became aware of the exiting coverage, Plaintiff notified Defendant of the damage to the property. Plaintiff has suffered damages in an amount yet to be determined, including, without limitation, loss of the full amount of the claim made on the policy, the loss of rental income, loss of use for the property, and the incurring of fees and costs.

10. On or about November 13, 2009, Defendant wrongfully denied Plaintiff's claim causing further damage to the property where the Plaintiff was not able to fix the property with the insurance financial assistance causing the property to further deteriorate from the water damage.

11. The improper and unreasonable refusal of coverage by Defendant has constituted a bad faith denial or delay of payment of Plaintiff's properly asserted claim under the Policy.

12. As a proximate result of the bad faith denial or delay of payment of Plaintiff's claim under the Policy, Plaintiff has suffered damages in an amount yet to be determined, including, without limitation, loss of the full amount of the claim made on the policy, and the incurring of fees and costs.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment against Defendants Allied Insurance and Nationwide Mutual Insurance Company as follows:

A. Against Defendants Allied Insurance and Nationwide Mutual Insurance Company in an amount yet to be determined, plus costs, including an award of legal fees pursuant to Neb. Rev. Stat. § 44-359;

B. For all cost of repairing the damages due to the water line freezing.

C. For the cost of this action; and

D. For such other and further relief as the Court deems just and equitable.

DATED this 27<sup>th</sup> day of April, 2012.

John Zapata

Plaintiff

By: 

John Zapata, pro-se  
1935 Yolande Ave  
Lincoln, NE 68521  
Tel: (402) 475-1600

**PRAECIPE**

**TO: CLERK OF THE DISTRICT COURT OF SHERIDAN COUNTY,  
NEBRASKA**

Please prepare Summonses in the above-captioned matter and deliver the same to John Zapata, 1935 Yolande Ave, Lincoln, NE 68521, for service upon defendants by certified mail, return receipt requested, addressed to:

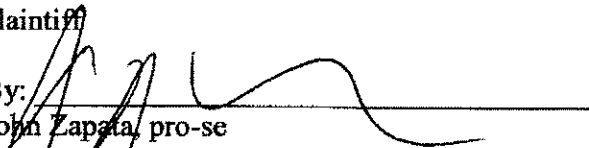
Allied Insurance  
1100 Locust St., Dept. 1100  
Des Moines, Iowa 50391-2000

Nationwide Mutual Insurance Company  
1100 Locust St., Dept. 1100  
Des Moines, Iowa 50391-2000

Nationwide Mutual Insurance Company  
One Nationwide Plaza 1-35-01  
Columbus, Ohio 43215

John Zapata

Plaintiff

By:   
John Zapata, pro-se  
1935 Yolande Ave  
Lincoln, NE 68521  
Tel: (402) 475-1600

## SERVICE RETURN

Doc. No. 3624

SHERIDAN COUNTY DISTRICT COURT  
 Sheridan County Courthouse  
 PO Box 581  
 Rushville NE 69360 0581

To:

Case ID: CJ

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Allied Insurance  
 1100 Locust St., Dept. 1100  
 Des Moines, Iowa 50391-2000

2. Article Number

(Transfer from service label)

7011 2970 0003 9332 2634

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent mons☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service 010

- ☐ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Date:

BY:

(Sheriff or authorized person)

**CERTIFIED MAIL**  
**PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,  
 TO THE PARTY: Allied Insurance

At the following address: 1100 Locust Street Dept 1100  
Des Moines IA 50391-2000

on the 3rd day of May, 2012, as required by Nebraska state law.

Postage \$

5.95

Attorney for:

The return receipt for mailing to the party was signed on May 5, 2012.

To: Nationwide Mutual Insurance Co.  
 One Nationwide Plaza 1-35-01  
 Columbus, OH 43215

From: John Zapata  
 Individual and as Assignee  
 1935 Yolande Ave  
 Lincoln, NE 68521

**FILED**  
5-14-12  
 ELOISE J. KAMPBELL  
 CLERK DISTRICT COURT  
 SHERIDAN COUNTY  
 NEBRASKA

**ATTACH RETURN RECEIPT & RETURN TO COURT**

000004900D61



Doc. No. 3625

000004952D61